⊗AO 133

(Rev. 8/06) Bill of Costs

UNITED STATES DISTRICT COUR

Southern

District of

New York

ELECTRONICALLY FILED
DOC #: ______

USDC SDNY DOCUMENT

DATE FILED: _///7///

JERMAINE NIBBS

BILL OF COSTS

V.

THE CITY OF NEW YORK

Case Number: 10 Civ. 3799 (VM)

Judgment having been entered in the above entitled action on9/29/2011 againstJERMAINE NIBBS,
the Clerk is requested to tax the following as costs: DOCKETED AS
Fees of the Clerk A JUDGMENT #1/271 *
rees for service of summons and suppoend
Fees of the court reporter for all or any part of the transcourt cessarily obtained for use in the case
Fees and disbursements for printing
Fees for witnesses (itemize on page two)
Fees for exemplification and copies of papers necessarily obtained for use in the case
Docket fees under 28 U.S.C. 1923
Costs as shown on Mandate of Court of Appeals
Compensation of court-appointed experts
Compensation of interpreters and costs of special interpretation services under 28 U.S.C. 1828
Other costs (please itemize) DEPOSITION 1,216.40
Submitting first y Hours Appeared and No opposition TOTAL \$ 1,316.40 Special Note: Attach to your bill an itemization and documentation for requested costs in all categories.
DECLARATION
I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this bill has been served on all parties in the following manner:
☐ Electronic service by e-mail as set forth below and/or.
Conventional service by first class mail postage prepaid as set forth below. s/ Attorney:
Name of Attorney: Brian J. Farrar, Assistant Corporation Counsel
For: The City of New York Date: 10/24/1/
Costs are taxed in the amount of 1, 3/6.40 and included in the judgment.
Clerk of Court By: Deputy Clerk Deputy Clerk Deputy Clerk

"//J"

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

16 2 2011

JERMAINE NIBBS,

Plaintiff(s),

Ind. No. 10 Civ. 3799 (VM) NOTICE OF APPLICATION FOR COSTS SOUGHT AGAINST

PLAINTIFF

THE CITY OF NEW YORK, ET AL.,

-against-

JERMAINE NIBBS

Defendant(s).

PLEASE TAKE NOTICE that, upon defendants' bill of costs, the declaration of

Brian J. Farrar, dated October 24, 2011 and exhibit annexed thereto, and all other pleadings and proceedings herein, defendants will move this Court before the Judgment Clerk, at the United States Courthouse, for the Southern District of New York, located at 500 Pearl Street Room 120, New York, New York at 10.00 a.m. on November 17, 2011, or as soon thereafter as counsel may be heard for an order pursuant to Rule 54 of the Federal Rules of Civil Procedure and 28 U.S.C. 1921 granting fees and costs sought by defendants and granting such relief as to this Court deems proper.

Dated:

New York, New York October 24, 2011

MICHAEL A.CARDOZO

Corporation Counsel of the City of New York Attorney for Defendants 100 Church Street New York, NY 10007

(212) 341-0797

By:

Brian J. Farrar

Assistant Corporation Counsel

To: **Gerald M. Cohen, ESQ.** Cohen & Fitch, LLP 225 Broadway ,Suite 2700 New York, NY 10007

AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK, COUNTY OF NEW YORK, SS.:

I, Valery Dekhman, being duly sworn, deposes and says that on October 2/4, 2011, I served copies of the Bill of Costs; Notice of Application for Costs Sought Against Plaintiff; the Judgment; Declaration of Brian J. Farrar in Support of Defendants' Motion for Costs pursuant to Fed. R. Civ. P. 54; 2 Subpoenas in Civil Case; 2 Copies of the checks; Invoice # 11032210501 upon Gerald M. Cohen, ESQ., the attorney for the Plaintiff JERMAINE NIBBS, by deposing copies of same, enclosed in a postpaid properly addressed envelope, in a post office box/official depository under exclusive care and custody of the United States Postal Service, located at 100 Church Street, New York, New York 10007, directed to said Attorney at Cohen & Fitch, LLP 225 Broadway, Suite 2700 New York, NY 10007

VALERY DEKHMAN

Sworn to before me this

day of October, 2011

NOTARY PUBLIC

Notary Public 24-4684296
No. 24-4684296
Qualified in Kings County
Commission Expires March 50, 2018

1

SAO 133

(Rev. 8/06) Bill of Costs

UNITED STATES DISTRICT COURT

WITNESS FEES (computation, cf. 28 U.S.C. 1821 for statutory fees)							
	ATTEN	DANCE	SUBSIS	STENCE	MILEAGE		Total Cost
NAME, CITY AND STATE OF RESIDENCE	Days	Total Cost	Days	Total Cost	Miles	Total Cost	Each Witness
Leticia Taveras, F-E-G-S We CARE, 315 Hudson Street New York, NY 10013	1	40.00	:				\$40.00
Lori Ann Farrington, 198 East 161st Street Bronx, NY 10451	1	40.00					\$40.00
	:						\$0.00
				:	!		\$0.00
							\$0.00
							\$0.00
					т	OTAL	\$80.00

NOTICE

Section 1924, Title 28, U.S. Code (effective September 1, 1948) provides:

"Sec. 1924. Verification of bill of costs."

"Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been charged were actually and necessarily performed."

See also Section 1920 of Title 28, which reads in part as follows:

"A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree."

The Federal Rules of Civil Procedure contain the following provisions: Rule 54 (d)

"Except when express provision therefor is made either in a statute of the United States or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs, but costs against the United States, its officers, and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on one day's notice. On motion served within 5 days thereafter, the action of the clerk may be reviewed by the court."

Rule 6(e)

"Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period."

Rule 58 (In Part)

"Entry of the judgment shall not be delayed for the taxing of costs."

EXHIBIT A

SOUTHERN DISTRICT OF NEW YORK	x	
JERMAINE NIBBS,		DECLARATION OF BRIAN
	Plaintiff,	J. FARRAR IN SUPPORT OF DEFENDANTS' MOTION
-against-		FOR COSTS PURSUANT TO
DET. GEORGE GOULART and		FED. R. CIV. P. 54
UNDERCOVER OFFICER # 0077,		10 Civ. 3799 (VM)
	Defendants.	
	X	

BRIAN J. FARRAR declares pursuant to 28 U.S.C. § 1746, under penalty of perjury, that the following is true and correct:

- 1. I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendants Detective George Goulart and Undercover Officer #77. As such I am familiar with the facts set forth below.
- 2. This declaration is submitted in support of defendants' motion for costs pursuant to Federal Rules of Civil Procedure 54, Local Civil Rule 54.1 and 28 U.S.C. §§ 1821, 1920, 1923, and 1924.
- 3. On May 10, 2010, plaintiff filed the instant action pursuant to 42 U.S.C. § 1983 alleging, inter alia, federal claims of false arrest, malicious prosecution, and denial of a right to a fair trial. In addition, plaintiff alleged a claim of municipal liability against the City of New York, pursuant to Monell v. City of N.Y. Dep't of Social Servs., 436 U.S. 658 (1978).
- 4. During discovery, defendants incurred costs totaling \$ 1,216.40 to take the deposition of plaintiff Jermaine Nibbs on March 22, 2011. A copy of the deposition invoice is attached as Exhibit "A."
- 5. The transcript of the deposition of plaintiff Jermaine Nibbs was used at trial and is therefore taxable pursuant to Local Rule 54.1(c)(2).

- 6. On September 19, 2011, a jury trial commenced before the Honorable Victor Marrero, United States District Judge.
- 7. On September 22, 2011, the jury returned a verdict in favor of defendants, on all claims. (See Docket Entry No. 47, Judgment Order, dated September 29, 2011, attached as Exhibit "B").
- 8. Further, defendants are entitled to an additional \$20.00 pursuant to 28 U.S.C. § 1923.
- 9. Defendants are also entitled to witness fees in the amount of \$40.00 as follows: \$40.00 for nonparty witness Leticia Taveras; and \$40.00 for nonparty witness Lori Ann Farrington. Copies of the related invoices are attached collectively as Exhibit "C."
- 11. Thus, the total costs pursuant to Local Rule 54.1 incurred by defendants in the defense of this action is \$1,316.40.

12. The aforementioned costs are allowable by law, are correctly stated and were necessarily incurred pursuant to Local Rule 54.1.

Dated:

New York, New York October 24, 2011

BRIAN J. FARRAR

Assistant Corporation Counsel

EXHIBIT B

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK DOCUMENT ELECTRONICALLY DOC #: DATE FILED: 9/2	FILED
JERMAINE NIBBS,	
Plaintiff, 10 CIVIL 3799 (V	/M)
-against- JUDGMENT	
THE CITY OF NEW YORK, et al., Defendants.	

Whereas a jury at the conclusion of trial of this action on September 22, 2011 having rendered a verdict, and the matter having come before the Honorable Victor Marrero, United States District Judge, and on September 23, 2011 having rendered it Order directing the Clerk of the Court to enter judgment dismissing the complaint of plaintiff Jermaine Nibbs against the named defendants, and to terminate any pending motions and close the case, it is,

ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Order dated September 23, 2011, the complaint of plaintiff Jermaine Nibbs against the named defendants are dismissed; accordingly, the case is closed.

DATED: New York, New York

September 29, 2011

RUBY J. KRAJICK

Clerk of Court

Deputy Clerk

THIS DOCUMENT WAS ENTERED ON THE DOCKET ON

EXHIBIT C



Diamond Reporting, Inc. 16 Court Street • Suite 907 • Brooklyn, NY 11241

T: 718.624.7200 • F: 718.855.1772 • www.diamondreporting.com

Try

INVOICE NO.: 11032210501

INVOICE DATE: 4/5/2011

KIYOKO PANZELLA

REPORTER:

NEW YORK CITY LAW DEPARTMENT PJN # 02507X100A17 100 CHURCH STREET, FISCAL SECTION-ROOM 5-121 NEW YORK, NY 10007

RAJU SUNDARAN, ESQ.

NIBBS, JERMAINE VS CITY OF NEW YORK, DET.GEORGE GOULART, SGT.EDWARD WYNNE, ETAL



BILLER ID: SS DESCRIPTION 3/22/2011 EXAM. BEFORE TRIAL OF THE PLF., JERMANNE NIBBS 32BPP ORIGINAL 2 2 00PIES - YOUR CHARGE APPEARANCE (AM & PM) YOUR CHARGE Teceived and services specified on this invoice have been precised and services specified on this invoice have been precised and services specified on this invoice have been precised and services specified on this invoice have been precised and services specified on this invoice have been precised and services specified on this invoice have been precised and services specified on this invoice have been precised and services specified on this invoice have been precised and services specified on this invoice have been precised and services specified on this invoice have been precised and services specified on this invoice have precised precised specified and services specified on this invoice have precise specified and services specified on this invoice have precise specified on this invoice have precised specified and services specified on this invoice have precised an	GOULART, S	GT EDWARD WYNNE, ETAL 10-CV-3799 FILE NO: 2010 120583 - S.F.	TAX ID #: 11-266-5	545
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AO 88	(11/91)	Subpocna in	a Civil	Case

United States District Court

SOUTHERN	DISTRICT OF	NEW YORK
Jermaine Nibbs	SUB	BPOENA IN A CIVIL CASE
v.	CASE	NUMBER: 10CV3799
Undercover #77, et al.		
TO: Leticia Taveras		
F-E-G-S- WeCARE		
315 Hudson Street		
New York, New York 10013		
	United States District Court at the	place, date, and time specified below to testify in
the above case PLACE OF TESTIMONY		COURTROOM
Southern District of New York		20 B, Hon. Victor Marrero
500 Pearl Street	1	DATE AND TIME Tuesday, Sept. 20, 2011 at 10:00 a.m.
New York, NY 10007		
- · ·	place, date, and time specified be	slow to testify at the taking of a deposition in the
Above case PLACE OF DEPOSITION		DATE AND TIME
YOU ARE COMMANDED to produce and date, and time specified below (list documents or		the following documents or objects at the place,
PLACE		DATE AND TIME
] YOU ARE COMMANDED to permit inspec	tion of the following premises at th	e date and time specified below.
PREMISES		DATE AND TIME
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Brian J. Farrar		
N.Y.C. Law Department, 100 Church Street		
New York, New York 10007 (212) 788-0467	and a south the second of the	
	Federal Rules of Civil Procedure, Parts C &	D on Reverse)

CITY OF NEW YORK LAW DEPARTMENT EXPENSE IN RE EMPLOYES, WITNESS NEW YORK OFFICE NEW YORK, NY	THE CHASE MANHA NEW YORK, NY 1-2/210	1080593
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United States District Court

SOUTHERN	DISTRICT OF	NEW YORK
Jermaine Nibbs	SUBPO	DENA IN A CIVIL CASE
V.	CASE NI	JMBER: 10CV3799
Undercover #77, et al.	.	
TO: ADA Lori Ann Farrington		
Office of the District Attorney, Br	onx County	
198 East 161st Street		
Bronx, New York 10451		
[X] YOU ARE COMMANDED to appear in t	the United States District Court at the plan	ce, date, and time specified below to testify in
the above case PLACE OF TESTIMONY	Louis	TROOM
Southern District of New York	· · · · ·	3, Hon. Victor Marrero
500 Pearl Street	DATE	AND TIME
New York, NY 10007	Tue	sday, Sept. 20, 2011 at 10:00 a.m.
[] YOU ARE COMMANDED to appear at t	the place, date, and time specified below	to testify at the taking of a deposition in the
above case PLACE OF DEPOSITION		AND TIME
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Attorney for Defendants		1/12/11
Brian J. Farrar N.Y.C. Law Department, 100 Church Street New York, New York 10007 (212) 788-0467 (See Rule 45)	7 5, Federal Rules of Civil Procedure, Parts C & D or	Reverse)

3-2071

Case 1:10-cv-03799-VM Document 54 Filed 11/17/11 Page 16 of 16 1080602 THE CHASE MANHATTAN BANK NEW YORK, NY 10039 CITY OF NEW YORK LAW DEPARTMENT EXPENSE IN RE EMPLOYEES, WITNESSES ETC. 1-2/210 NEW YORK OFFICE NEW YORK, NY 9/13/2011 PAY TO THE ADA Lori Ann Farrington **DOLLARS** ADA Lori Ann Farrington CITY OF NEW YORK, LAW DEPARTMENT IN RE EMPLOYEES, WITNESS, ETC., NEW YORK OFFICE Office of the District Attorney **Bronx County** 198 E. 161st Street Bronx, NY 10451

JERMAINE NIBBS # 1080602# #021000021#0221015035#

MEMO

10 :01 MA E1 932 FT